

12.9.601 DEPARTMENT AUTHORIZATION OF PROJECTS

(1) The department may authorize organizations or individuals to participate in the upland game bird release program following the submission of a written application describing the proposed project on forms provided by the department and a review of that application. All applications must include the following information:

- (a) name of the organization or individual applying;
- (b) name of the person in charge of the organization's proposed upland game bird release project;
- (c) the applicant's current mailing address;
- (d) the applicant's current telephone number;
- (e) the legal description of the release site;
- (f) clear evidence of either ownership of the release site or landowner permission if the release site is not owned by the applicant;
- (g) specific cover types and their percentages shall be provided with a habitat map or be delineated on a habitat map, natural resource conservation service (NRCS) conservation plan, or aerial photo covering the land on which the birds are to be released;
- (h) the number of acres at the release site; and
- (i) any other information deemed relevant by the department which is included on the project application form.

12.9.602 REQUIREMENTS OF PROJECTS INVOLVING PHEASANT RELEASES

(1) The department will not authorize participation in the upland game bird release program for pheasants unless the proposed project meets the following requirements:

- (a) all birds must be at least 10 weeks of age at the time of release;
- (b) a minimum of 40% of the birds in a release under this program must be cocks;
- (c) all birds must be fully feathered;
- (d) applications for releases must be postmarked prior to May 15, and all releases must be made between August 1 and September 15;
- (e) groups or individuals releasing birds on property they do not own must provide the department with written documentation from the landowner giving permission for the release and acknowledging the requirement of allowing free public hunting and to whom payment should be made;
- (f) releases may not be made in Fergus, Richland or Roosevelt counties in order to provide a basis for evaluating the success of the program;
- (g) all releases must be on land open to public hunting without the imposition of any monetary charge for such hunting privilege during the year of release.

Release sites may be subject to use limitations but no fee may be charged in connection with the privilege to hunt on any release site;

(h) all release sites should contain a minimum of 160 contiguous acres under the ownership of the applicant or the person authorizing release. Release sites as small as 80 contiguous acres will be considered on a case-by-case basis and may be authorized if the acreage involved would provide a viable habitat base for the number of birds authorized to be released;

(i) within one mile of each release habitat must be available that consists of at least 10% permanent winter cover as described in ARM [12.9.615\(2\)](#) , 25% idle cover such as undisturbed residual vegetation 10 or more inches high and 10% food sources, such as cultivated grain, to be considered for authorization;

(i) conservation reserve grass-legume planting may be considered as idle cover provided the planting has not been mowed or grazed by livestock in the preceding 12 month period.

(j) certification of the genetic strain must be available from the commercial source of the eggs or chicks and must be provided, upon request, to the department by the applicant;

(k) all source stock must be purchased from an authorized national poultry improvement plan (NPIP) hatchery;

(l) if the number of applicants, private or commercial, applying to release pheasants cannot be accommodated by program funding, distribution of funds will take place in the following manner:

(i) if funding is insufficient to allow each applicant to release up to 200 pheasants, the department will conduct a random drawing to determine who will receive release permits;

(ii) if funding will allow each individual applicant, private or commercial, to release up to 200 pheasants, the department shall issue a permit to each applicant;

(iii) if there is sufficient funding for each applicant, applicants, by submitting a second application, will be allowed to release up to 200 additional pheasants. This same process will be followed until funding will no longer cover remaining applicants. At that time, the department will conduct a random drawing for the remaining releases.

(m) sites will be inspected by department personnel to determine the number of birds that may be released. This number will be determined by:

(i) the required habitat component (winter cover, idle cover, food sources) that occupies the fewest acres within one mile of the site release; and

- (ii) the number of birds that the area will support assuming one bird will require approximately three acres of habitat within a one-mile radius of the release site and there is a 60% mortality rate of released birds;
 - (n) banding of birds will be required in specified study areas and will be done by the department prior to release;
 - (o) all releases must be verified at the time of release by a department employee who will submit the verification form signed by the landowner for payment to the landowner or their designee;
 - (p) sites may be stocked for a period of five consecutive years. If a viable population is not established during that period, the department will no longer consider the site as being capable of supporting populations and will not fund any additional releases unless habitat changes are made that would make the site more suitable for the establishment of a viable population;
 - (q) in the case of extreme weather conditions, the department will evaluate the area pursuant to ARM [12.6.615](#) to determine if the department will authorize the continued stocking of sites currently being used for an additional five years.
- (2) For good cause shown, the department may waive any requirement listed in (1) .

12.9.603 REPORTING REQUIREMENTS (REPEALED)

12.9.604 PAYMENT BY DEPARTMENT

(1) The department will pay authorized pheasant release projects for live birds released in compliance with all the provisions of this subchapter at a rate equivalent to the average cost of 10 week old pheasants being raised and offered for sale to the public by NPPI certified hatcheries or game bird growers in Montana. The price will be determined by surveying hatcheries and growers in March of each year. If circumstances prevent the department from timely release of birds contracted for release at 10 weeks of age, the department will cover the additional expenses incurred by the hatchery or grower on behalf of the department.

12.9.605 EFFECT OF RULE VIOLATIONS

(1) Any person found guilty, pleading guilty or forfeiting bond for a violation of any of the upland game bird release program rules is disqualified from any further participation in the program.

12.9.606 DEFINITIONS

(1) "Upland game bird release program" means the programs established by [87-1-246](#) through [87-1-248](#) , MCA, for both the compensation to eligible participants for the rearing and release of upland game birds in order to establish viable populations, and

the compensation to eligible participants for the trapping and release of wild upland game birds in order to establish viable upland game bird populations.

(2) "Upland game bird habitat enhancement program" means the programs established by [87-1-246](#) through [87-1-248](#) , MCA, for cost-sharing to eligible cooperators for the establishment of suitable habitats to enhance the establishment of viable upland game bird populations.

12.9.608 PHEASANT RELEASES BY DEPARTMENT

(1) In order to meet the spending requirements set forth in [87-1-247](#) , MCA, the department may enter into agreements with private pheasant rearing facilities to provide pheasants for release on areas throughout Montana that meet the habitat requirements as described for releases by private individuals.

12.9.611 REQUIREMENTS OF PROJECTS INVOLVING WILD TURKEY RELEASES

(1) The department may authorize participation in the upland game bird release program projects for turkeys if the proposed project meets the following requirements:

- (a) all releases made will be of wild/free ranging stock that have been trapped in Montana or have been moved into Montana under the direction of the department;
- (b) all releases outside of Flathead County will be Merriam's turkey only;
- (c) eastern turkeys may be moved only within Flathead County;
- (d) no new releases will take place until:
 - (i) an environmental assessment evaluating the release and the release site has been completed and approved by the commission; and
 - (ii) the department has secured agreements from adjacent landowners that would be affected by expanded populations indicating consent for the transplant and free public hunting for the species; and
- (e) supplemental releases will require an evaluation by the department that will include but not be limited to:
 - (i) a history of previous releases;
 - (ii) justification for supplementing the existing population;
 - (iii) a legal description of the release site;
 - (iv) a legal description of the area that will be closed to public hunting until the population has become established (two-year minimum) ; and
 - (v) agreements from adjacent landowners that would be affected by expanded populations indicating consent for the transplant and free public hunting for the species.

12.9.615 SUPPLEMENTAL FEEDING

(1) The department may enter into agreements with individuals, organizations, or other agencies to provide supplemental feeding for upland birds during extreme weather events. Supplemental feeding will be considered on a case-by-case basis. The threat posed to the upland game bird population will be evaluated on a county-wide basis. The department will use the following guidelines to determine when supplemental feeding should occur:

- (a) a severe winter storm where 90% or more of the naturally occurring food sources are covered with snow and ice, and conditions are such that the upland birds are unable to obtain food for a period of five or more days; or
- (b) the affected area is large enough that it presents a serious threat to the viability of the population within the county.

(2) Supplemental feeding will be done only within areas 1/4 miles or closer to winter cover. Winter cover includes but is not limited to the following examples:

- (a) minimum three row uncultivated shelterbelt comprised of trees five years or older;
- (b) minimum four row uncultivated shelterbelt comprised of shrubs and trees;
- (c) woody drainages;
- (d) river or stream courses ungrazed by livestock for at least the previous 12 months; and
- (e) cattail sloughs ungrazed by livestock for at least the previous 12 months.

(3) The department shall not enter into agreements for supplemental feeding on lands leased or closed for hunting, on shooting preserves, or during open pheasant season.

(4) Feeding will stop when conditions moderate.

(5) No feeding operation may begin after March 30.